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9 HERRIG & VOGT, LLP
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 Carl Alexander Wescott,
15 Plaintiff

16 vs.

17 S.C. Anderson, Inc.;
18 Herrig & Vogt, LLP;
19 Moe's Process Serving, Inc.,
20 Defendants.
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Case No. cv 17-5676-LB

(1) **NOTICE OF MOTION AND MOTION TO
DISMISS COMPLAINT**

(2) **MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO DISMISS (filed concurrently
herewith under separate cover)**

(3) **REQUEST FOR JUDICIAL NOTICE (filed
concurrently herewith under separate
cover)**

(4) **(PROPOSED) ORDER GRANTING
MOTION TO DISMISS COMPLAINT
(filed concurrently herewith under separate
cover)**

(5) **PROOF OF SERVICE (filed concurrently
herewith under separate cover)**

Date: February 15, 2018

Time: 9:30 a.m.

Place: U.S. District Court, Northern District, 450 Golden
Gate Ave., Courtroom C-15th Fl., San Francisco, CA 94102

Hon. Laurel Beeler

Action Filed: October 2, 2017

Trial Date: Not Yet Set

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 15, 2018 at 9:30 a.m. in Courtroom C – 15th Floor of the above titled court Defendants S.C. Anderson, Inc. and Herrig & Vogt, LLP (“Defendants”) will and hereby do, move the Court for an order dismissing this action pursuant to Federal Rule of Civil Procedure 12(b)(6).

Defendants seek an order dismissing the complaint filed by plaintiff Carl Alexander Wescott in its entirety, without leave to amend. The grounds for the motion are that the causes of action set forth in the complaint do not state a claim on which relief can be granted by this Court, the causes of action are barred by applicable statutes of limitations, the complaint fails to meet the pleading standards required under Federal Rule of Civil Procedure 9 and the Court should decline to exercise supplemental jurisdiction over the law claims alleged in the complaint in order to avoid unnecessary decisions on state law. Dismissal of the complaint without leave to amend is appropriate because amendment of the complaint would be futile and an amended complaint would be subject to dismissal.

This Motion is based on this notice of motion and motion, the memorandum of points and authorities, the request for judicial notice, all pleadings and files in this matter, all other matters which this Court may take judicial notice and upon such other and further oral or documentary evidence as may be presented to the Court at or prior to the hearing on this Motion.

Dated: January 9, 2018

HERRIG & VOGT, LLP

By /S/ Anthony P. Fritz
Anthony P. Fritz
Attorneys for Defendants S.C. Anderson, Inc.
and Herrig & Vogt, LLP